

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-10 are pending in this paper. Claims 1 and 8-10, which are independent, are amended. Support for this amendment is provided throughout the Specification, specifically at paragraph [0135].

No new matter has been introduced. Changes to the claims are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

II. REQUEST TO WITHDRAW THE FINALITY OF THE OFFICE ACTION

Applicants respectfully request that the finality of the Office Action needs to be withdrawn, as the new ground of rejection under 35 USC 103(a) was not necessitated by Applicants' amendments.

The Office Action (at page 2) concedes that:

Applicant's arguments, see Remarks, pages 9-12, filed 01/26/2011, with respect to the rejections(s) of claim(s) 1-10 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further

consideration, new ground(s) of rejection is made in view of Sugimura et al. (US Publication No. 2004/0042370).

Applicants point out that in the response filed on 01/26/2011, Applicants presented only arguments to overcome rejections under 35 U.S.C 103(a). Although the claims were amended, the amendments were directed to overcome rejections under 35 U.S.C 101. It is noted that Applicants' amendments successfully overcame rejections under 35 U.S.C 101. As a result, this Office Action withdraws all rejections under 35 U.S.C 101. The Office Action includes only new grounds of rejections under 35 U.S.C 103(a) in response to Applicants' argument. Therefore, the new grounds of rejections under 35 U.S.C 103(a) stated in this Office Action are not necessitated by Applicants' previous amendments. Accordingly, the finality of this Office Action is premature and should be withdrawn.

III. REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 1-10 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Publication No. 2002/0164149 to Wilkinson (hereinafter, merely "Wilkinson") and further in view of U.S. Patent Application Publication No. 2004/0042370 to Sugimura et al. (hereinafter, merely "Sugimura")

IV. RESPONSE TO REJECTIONS

Claim 1 recites, *inter alia*:

"A file generation apparatus for generating a file of first data to be recorded on a recording medium, the file generation apparatus comprising:

...wherein the second data and the third data have a format that is the same as the format of the standard AV multiplexing file.” (emphasis added)

Applicants submit that Wilkinson and Sugimura, taken either alone or in combination, fail to disclose or render predictable the above-identified features of claim 1. Nothing in either of the references discloses or renders predictable **“wherein the second data and the third data have a format that is the same as the format of the standard AV multiplexing file,”** as recited in claim 1.

Therefore, claim 1 is patentable.

For similar, or somewhat similar, in scope to claim 1, Claims 8-10 are therefore patentable for similar, or somewhat similar, reasons.

V. DEPENDENT CLAIMS

The other claims are dependent from one of the independent claims, discussed above, and are therefore believed patentable for at least the same reasons. As nothing in the prior art cited in the Office Action cures the above-identified deficiencies, Applicants respectfully request reconsideration and withdrawal of the rejections. As each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

CONCLUSION

Similarly, because Applicants maintain that all claims are allowable for at least the reasons presented hereinabove, in the interests of brevity, this response does not comment on

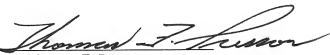
each and every comment made by the Examiner in the Office Action. This should not be taken as acquiescence of the substance of those comments, and Applicants reserve the right to address such comments.

In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference or references, it is respectfully requested that the Examiner specifically indicate those portions of the reference or references providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

Respectfully submitted,

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